

## Filing at a Glance

Companies: American Zurich Insurance Company, American Guarantee and Liability Insurance Company, Zurich American Insurance Company of Illinois, Zurich American Insurance Company

Product Name: Commercial Other SERFF Tr Num: ZURC-125177861 State: Arkansas

Liability/Professional Liability - Technology

Errors and Omissions Protection Coverage

TOI: 17.0 Other Liability - Claims

SERFF Status: Closed

State Tr Num: AR-PC-07-025245

Made/Occurrence

Sub-TOI: 17.0019 Professional Errors &

Co Tr Num: CW PR 26144

State Status:

Omissions Liability

Filing Type: Form

Co Status: Not Applicable

Reviewer(s): Betty Montesi, Edith Roberts

Authors: Patricia Chudik, Diane Zaborowski

Disposition Date: 07-12-2007

Date Submitted: 06-27-2007

Disposition Status: Approved

Effective Date Requested (New): 08-01-2007

Effective Date (New):

Effective Date Requested (Renewal): 08-01-2007

Effective Date (Renewal):

## General Information

Project Name: CW-PR-26144 Commercial Other Liability/Professional Liability - Technology Errors and Omissions Protection Coverage Status of Filing in Domicile: Pending

Project Number: CW-PR-26144

Domicile Status Comments:

Reference Organization: N/A

Reference Number: N/A

Reference Title: N/A

Advisory Org. Circular: N/A

Filing Status Changed: 07-12-2007

State Status Changed: 06-28-2007

Deemer Date:

Corresponding Filing Tracking Number:

Filing Description:

In accordance with your state's filing requirements, submitted for your review and approval are the forms for use with our new proprietary Technology Errors and Omissions Protection Coverage program.

This coverage may be attached to a package policy that contains the ISO commercial general liability occurrence coverage part. Required ISO state amendatory endorsements will be included with these policies. If the Technology Errors & Omissions is written as a stand-alone policy, the ISO state amendatory endorsements relating to cancellation and nonrenewal will be included on that policy. Please see the explanatory memorandum for a complete description of this filing.

The rating rules have been submitted in a separate SERFF filing.

We request that this filing becomes effective on August 1, 2007, or as soon as statutes permit.

## Company and Contact

### Filing Contact Information

Patricia Chudik, Product Analyst	pat.chudik@zurichna.com
1400 American Lane	(847) 605-7714 [Phone]
Schaumburg, IL 60196-1056	(847) 605-7768[FAX]

### Filing Company Information

American Zurich Insurance Company	CoCode: 40142	State of Domicile: Illinois
1400 American Lane	Group Code: 212	Company Type:
Schaumburg, IL 60196	Group Name:	State ID Number:
(847) 605-6000 ext. [Phone]	FEIN Number: 36-3141762	
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American Guarantee and Liability Insurance Company	CoCode: 26247	State of Domicile: New York
1400 American Lane	Group Code: 212	Company Type:
Schaumburg, IL 60196	Group Name:	State ID Number:
(847) 605-6000 ext. [Phone]	FEIN Number: 36-6071400	
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Zurich American Insurance Company of Illinois	CoCode: 27855	State of Domicile: Illinois
1400 American Lane	Group Code: 212	Company Type:
Schaumburg, IL 60196	Group Name:	State ID Number:
(847) 605-6000 ext. [Phone]	FEIN Number: 36-2781080	
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Zurich American Insurance Company	CoCode: 16535	State of Domicile: New York
1400 American Lane	Group Code: 212	Company Type:
Schaumburg, IL 60102	Group Name:	State ID Number:
(847) 605-6000 ext. [Phone]	FEIN Number: 36-4233459	
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## Filing Fees

Fee Required?	Yes
Fee Amount:	\$50.00
Retaliatory?	No
Fee Explanation:	Arkansas's fee is \$50 per form filing.
Per Company:	No

CHECK NUMBER	CHECK AMOUNT	CHECK DATE
3400248290	\$50.00	05-03-2007

## Correspondence Summary

### Dispositions

Status	Created By	Created On	Date Submitted
Approved	Edith Roberts	07-12-2007	07-12-2007

### Objection Letters and Response Letters

Objection Letters				Response Letters		
Status	Created By	Created On	Date Submitted	Responded By	Created On	Date Submitted
Pending Industry Response	Edith Roberts	07-11-2007	07-11-2007	Patricia Chudik	07-11-2007	07-11-2007
Pending Industry Response	Edith Roberts	06-28-2007	06-28-2007	Patricia Chudik	07-09-2007	07-09-2007

### Amendments

Item	Schedule	Created By	Created On	Date Submitted
Exclusion -- Intellectual Property	Form	Patricia Chudik	06-29-2007	06-29-2007

## **Disposition**

Disposition Date: 07-12-2007

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	Yes
Supporting Document	Explanatory memorandum and chart of optional endorsements	Approved	Yes
Form	Technology Errors and Omissions Protection Coverage Part Declarations	Approved	Yes
Form	Technology Errors and Omissions Protection Coverage Form	Approved	Yes
Form	Additional Insured -- Vendors	Approved	Yes
Form	Consent to Settle	Approved	Yes
Form	Exclusion -- Developmental Risk	Approved	Yes
Form	Exclusion -- Electronic Funds Transfer	Approved	Yes
Form <i>(revised)</i>	Exclusion -- Intellectual Property	Approved	Yes
Form	Exclusion -- Intellectual Property	Approved	Yes
Form	Exclusion -- Newly Acquired or Formed Organizations	Approved	Yes
Form	Exclusion -- Professional Services	Approved	Yes
Form	Multiple Retroactive Dates	Approved	Yes
Form	Multiple Retroactive Dates -- Designated Products or Work	Approved	Yes
Form	Newly Acquired or Formed Organizations -- Prior Acts Coverage	Approved	Yes
Form	Other Insurance Condition	Approved	Yes
Form	Retroactive Date Applicable to Increased Limits of Insurance	Approved	Yes
Form	Security Breach or Unauthorized Access Coverage	Approved	Yes
Form	Self Insured Retention Including Defense Expenses	Approved	Yes
Form <i>(revised)</i>	Supplemental Extended Reporting Period	Approved	Yes
Form	Supplemental Extended Reporting Period	Approved	Yes
Form	Arkansas Changes	Approved	Yes
Rate	State Exception Page - Arkansas	Approved	Yes

## Objection Letter

Objection Letter Status Pending Industry Response

Objection Letter Date 07-11-2007

Submitted Date 07-11-2007

Dear Patricia Chudik,

This will acknowledge receipt of the captioned filing.

The Order exempting Technology liability from defense within limits has been signed by the commissioner and may now apply to this filing. Upon, amendment of the additional areas of concern, I will be able to stamp with the exemption to the defense within limits on all limits of \$1,000,000 or greater.

Thanks,

Edith

Please feel free to contact me if you have questions.

Sincerely,

Edith Roberts

## Response Letter

Response Letter Status Submitted to State

Response Letter Date 07-11-2007

Submitted Date 07-11-2007

Dear Edith Roberts,

Comments:

### Response 1

Comments: Dear Ms. Roberts:

Thank you for advising us of the Commissioner's signature to the Order.

I believe we responded to the remaining issues in our 7-9-2007 communication. Please contact me if you have additional concerns.

Thank you.

Pat Chudik

No Supporting Documents have changed.

No Form Schedule items changed.

No Rate/Rule Schedule Item Changes

Sincerely,

Diane Zaborowski, Patricia Chudik

## Objection Letter

Objection Letter Status	Pending Industry Response
Objection Letter Date	06-28-2007
Submitted Date	06-28-2007

Dear Patricia Chudik,

This will acknowledge receipt of the captioned filing.

This coverage contains defense within the limits of liability which prohibited by AR Code Anno 23-79-307 (5) (A). However, there is a Order pending that will exempt Technology E&O from that code, however, it is awaiting the commissioner's signature. If you can allow us to hold this filing pending, that order should be signed within the near future.

With reference to Form TEO-0101 (12/06), page 9, #5, the law regarding reasons for cancellation does not allow failure to promptly reimburse deductible as a reason to cancel a policy. Please omit. You may non renew, but may not cancel mid term.

Please refer to page 13, Section V - Extended Reporting Periods. In provision 1.a., you may not refuse either the basic or optional extended reporting periods for termination due to non-payment of premium or deductibles. AR Code Anno 23-79-306 (2-3) provides that both the basic ERP and optional ERP if premium is paid, are mandatory for all terminations except flat cancellations.

Also under section (6) of the aforementioned code, the limit must be the greater of the amount remaining of the expiring policy aggregate, or reinstated to 50%. Please amend page 14, #5, accordingly.

Please feel free to contact me if you have questions.

Sincerely,

Edith Roberts

## Response Letter

Response Letter Status	Submitted to State
Response Letter Date	07-09-2007
Submitted Date	07-09-2007

Dear Edith Roberts,

Comments:

### Response 1

Comments: Dear Ms. Roberts:

Thank you for your correspondence regarding this filing.

We agree to have the Department keep this filing pending until the Order is signed by the Commissioner exempting Technology Errors & Omissions coverage from the prohibitions against defense within limits. Thank you for advising us of this option.



We have created form TEO-1031, Arkansas Changes. Item 1 deletes the failure to reimburse the deductible as a reason for cancellation.

We have amended Section V, Extended Reporting Period, in item 2 of the Arkansas Changes form.

We have amended page 14 of the policy, item 5, in items 3 and 4 of the Arkansas Changes form.

As part of the changes required, we will withdraw TEO-0215 and replace it with TEO-0216, Supplemental Extended Reporting Period - Aggregate REinstatement. We have created a corresponding usage rule.

I have attached the Arkansas Changes form and the usage rule to the appropriate schedules. Please contact me if you need additional information or corrections. Thank you again for your assistance with the defense within limits issue.

No Supporting Documents have changed.

#### Form Schedule Item Changes

Form Name	Form Number	Edition Date	Form Type	Action	Action Specific Data	Readability Score
Supplemental Extended Reporting Period	TEO-0215	(1206)	Endorsement/Amendment/Conditions	Withdrawn		0
Arkansas Changes	TEO-1031	(12 06)	Endorsement/Amendment/Conditions	New		0

Rate/Rule Schedule Item Changes

Exhibit Name	Rule # or Page #	Rate Action	Previous State Filing #
State Exception Page - Arkansas	AR-1 (12 06)	New	

Sincerely,  
Diane Zaborowski, Patricia Chudik

**Amendment Letter**

Amendment Date:

Submitted Date: 06-29-2007

**Comments:**

Please see revised form TEO-0205. We noticed that the word "not" had been omitted in error from the original form in the last sentence of the exclusion.

I apologize for this error on my part and any confusion I may have caused.

We are working on the additional issues in your objection letter of 6-28-07.

Thank you.

Pat Chudik

**Changed Items:**

**Form Schedule Item Changes:**

Form Name	Form Number	Edition Date	Form Type	Action	Replaced Form #	Previous Filing #	Readability Score	Attachments
Exclusion -- Intellectual Property	TEO-0205	(1206)	Form	New			0	TEO-0205 - Exclusion -- Intellectual Property.pdf

## Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	Technology Errors and Omissions Protection Coverage Part Declarations	TEO-0001	(12 06)	Declaration New s/Schedule		0.00	TEO-0001 - Tech E&O Dec FINAL.pdf
Approved	Technology Errors and Omissions Protection Coverage Form	TEO-0101	(12 06)	Policy/CoveNew rage Form		0.00	TEO-0101 - Tech E&O Form FINAL 12 05 06.pdf
Approved	Additional Insured -- Vendors	TEO-0201	(1206)	Endorseme New nt/Amendm ent/Condi ti ons		0.00	TEO-0201 - Additional Insured -- Vendors.pdf
Approved	Consent to Settle	TEO-0202	(1206)	Endorseme New nt/Amendm ent/Condi ti ons		0.00	TEO-0202 - Consent to Settle.pdf
Approved	Exclusion -- Developmental Risk	TEO-0203	(1206)	Endorseme New nt/Amendm ent/Condi ti ons		0.00	TEO-0203 - Exclusion -- Developmental Risk.pdf
Approved	Exclusion -- Electronic Funds Transfer	TEO-0204	(1206)	Endorseme New nt/Amendm ent/Condi ti ons		0.00	TEO-0204 - Exclusion -- Electronics Fund Transfer.pdf
Approved	Exclusion -- Intellectual Property	TEO-0205	(1206)	Endorseme New nt/Amendm ent/Condi ti ons		0.00	TEO-0205 - Exclusion -- Intellectual Property.pdf
Approved	Exclusion -- Intellectual Property	TEO-0205	(1206)	Endorseme New nt/Amendm ent/Condi ti ons		0.00	TEO-0205 - Exclusion -- Intellectual Property.pdf
Approved	Exclusion -- Newly Acquired or Formed Organizations	TEO-0206	(1206)	Endorseme New nt/Amendm ent/Condi ti ons		0.00	TEO-0206 - Exclusion -- Newly Acquired or Formed

					Organization s.pdf
Approved	Exclusion -- Professional Services	TEO-0207 (1206)	Endorseme New nt/Amendm ent/Condi tions	0.00	TEO-0207 - Exclusion -- Professional Services.pdf
Approved	Multiple Retroactive Dates	TEO-0208 (1206)	Endorseme New nt/Amendm ent/Condi tions	0.00	TEO-0208 - Multiple Retroactive Dates.pdf
Approved	Multiple Retroactive Dates -- Designated Products or Work	TEO-0209 (1206)	Endorseme New nt/Amendm ent/Condi tions	0.00	TEO-0209 - Multiple Retroactive Dates - Designated Products or Work.pdf
Approved	Newly Acquired or Formed Organizations -- Prior Acts Coverage	TEO-0210 (1206)	Endorseme New nt/Amendm ent/Condi tions	0.00	TEO-0210 - Newly Acquired or Formed Organization s -- Prior Acts Coverage.pd f
Approved	Other Insurance Condition	TEO-0211 (1206)	Endorseme New nt/Amendm ent/Condi tions	0.00	TEO-0211 - Other Insurance Condition.pd f
Approved	Retroactive Date Applicable to Increased Limits of Insurance	TEO-0212 (1206)	Endorseme New nt/Amendm ent/Condi tions	0.00	TEO-0212 - Retroactive Date Applicable to Increased Limits of Insurance.pd f
Approved	Security Breach or Unauthorized Access Coverage	TEO-0213 (1206)	Endorseme New nt/Amendm ent/Condi tions	0.00	TEO-0213 - Security Breach or Unauthorize d Access Coverage.pd

Approved	Self Insured Retention Including Defense Expenses	TEO-0214 (1206)	Endorsement/Amendment/Conditions	0.00	f TEO-0214 - Self Insured Retention Including Defense Expenses.pdf
Approved	Supplemental Extended Reporting Period	TEO-0215 (1206)	Endorsement/Amendment/Conditions	0.00	
Approved	Supplemental Extended Reporting Period	TEO-0215 (1206)	Endorsement/Amendment/Conditions	0.00	TEO-0215 - Supplemental Extended Reporting Period.pdf
Approved	Arkansas Changes	TEO-1031 (12 06)	Endorsement/Amendment/Conditions	0.00	Arkansas Changes.pdf



# Technology Errors and Omissions Protection Coverage Part Declarations



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**THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE. THE LIMITS OF INSURANCE AND DEDUCTIBLE INCLUDE "DEFENSE EXPENSES". PLEASE READ THE ENTIRE COVERAGE PART CAREFULLY.**

1. **NAMED INSURED:**

**POLICY NUMBER:**

2. **POLICY PERIOD:** FROM \_\_\_\_\_ TO \_\_\_\_\_  
12:01 A.M. Standard Time at your mailing address.  
PRIOR POLICY NO.:

3. **RETROACTIVE DATE:**  
(If blank, this will be the same as the Policy Period Effective Date)

4. **LIMITS OF INSURANCE:**

AGGREGATE LIMIT	\$
EACH CLAIM LIMIT	\$
EACH CLAIM DEDUCTIBLE	\$

5. **FORMS AND ENDORSEMENTS APPLICABLE TO THIS COVERAGE PART:**

These Declarations, the Coverage Form, and endorsements provide Technology Errors and Omissions Protection Coverage. Although it may be part of a package policy, this Coverage Part is independent of the other Coverage Parts except that the Common Policy Declarations, Common Policy Conditions, and the cancellation and nonrenewal provisions apply to the Technology Errors and Omissions Protection Coverage Part.

6. <b>CLASSIFICATION</b>	<b>CODE NO.</b>	<b>PREMIUM BASIS</b>	<b>RATE</b>	<b>ADVANCE PREMIUM</b>
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<b>TOTAL AMOUNT DUE AT INCEPTION FOR THIS COVERAGE PART:</b>	\$
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# Technology Errors and Omissions Protection Coverage Form



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**THIS COVERAGE FORM PROVIDES CLAIMS-MADE COVERAGE. THE LIMITS OF INSURANCE AND DEDUCTIBLE INCLUDE "DEFENSE EXPENSES". PLEASE READ THE ENTIRE COVERAGE FORM AND ENDORSEMENTS CAREFULLY.**  
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Various provisions in this Coverage Form restrict coverage. Read the entire Coverage Form carefully to determine rights, duties, and what is and is not covered.

Throughout this Coverage Part the words "you" and "your" refer to the Named Insured shown in the Coverage Part Declarations, and any other person or organization qualifying as a Named Insured under this Coverage Part. The words "we", "us", and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under SECTION II -- WHO IS AN INSURED. Other words and phrases that appear in bold and quotation marks have special meaning. Refer to SECTION VI -- DEFINITIONS.

## SECTION I -- COVERAGE

### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as **"damages"** to which this insurance applies and result from:
  - 1) The failure of **"your product"** to perform the function or serve the purpose intended; or
  - 2) The performance or non-performance of **"your work"**.
- b. We will have the right and duty to defend the insured against any **"suit"** seeking **"damages"** to which this insurance applies. However, we will have no duty to defend the insured against any **"suit"** seeking **"damages"** to which this insurance does not apply. But:
  - 1) The amount we will pay for **"damages"** and **"defense expenses"** is limited as described in SECTION III -- LIMITS OF INSURANCE -- DEDUCTIBLE;
  - 2) We may, at our discretion, investigate any **"wrongful act"** and settle any **"claim"** or **"suit"** that may result;
  - 3) Any **"defense expenses"** we pay are included within, and not in addition to, the Limits of Insurance;
  - 4) Our right and duty to defend ends when we have used up the applicable Limit of Insurance in the payment of judgments, settlements, or **"defense expenses"**; and
  - 5) When our right and duty to defend a **"suit"** ends, we will withdraw as provided in paragraph 13. of SECTION IV -- CONDITIONS. We will have no further obligations with respect to that **"suit"**.



c. This insurance applies only if:

- 1) The "**wrongful act**" takes place in the "**coverage territory**";
- 2) The "**wrongful act**" occurs on or after the Retroactive Date shown in the Coverage Part Declarations and before the end of the policy period;
- 3) None of your "**executive officers**" or "**key insurance contacts**" had knowledge, prior to the "**original effective date**" of this insurance, of any "**wrongful act**" which could reasonably be expected to result in a "**claim**"; and
- 4) The "**claim**" is first made against any insured, in accordance with paragraph d. below, during the policy period or any Extended Reporting Period we provide under SECTION V -- EXTENDED REPORTING PERIODS.

d. A "**claim**" will be deemed to be first made at the earlier of the following dates:

- 1) The date that notice of such "**claim**" is received by:
  - a) Any "**executive officer**", "**key insurance contact**", or your legal representative;
  - b) Our licensed agent; or
  - c) Us;whichever comes first; or
- 2) The date that we receive notice of a "**wrongful act**" from any insured which describes what "**damages**" may result from the "**wrongful act**".

e. All "**claims**" arising out of any one "**wrongful act**" or series of related "**wrongful acts**" will be deemed to have been made at the time the first of those "**claims**" is made against any insured and shall constitute a single "**claim**" under SECTION III -- LIMITS OF INSURANCE -- DEDUCTIBLE.

## 2. Exclusions

This insurance does not apply to:

### a. Asbestos

- 1) The actual, alleged, or threatened discharge, dispersal, release, leakage, leaching, friability, flaking, escape, presence, or use of "**asbestos**".
- 2) Any loss, cost, or expense arising out of any:
  - a) Request, demand, order, or statutory or regulatory requirement that any insured or others test for, investigate, monitor, clean up, remove, study, contain, treat, encapsulate, control, or take any other action regarding "**asbestos**"; or
  - b) "**Claim**" or "**suit**" arising out of or relating in any way to any request, demand, order, or statutory or regulatory requirement that any insured or others test for, investigate, monitor, clean up, remove, study, contain, treat, encapsulate, control, or take any other action regarding "**asbestos**".

**b. Bankruptcy**

"**Damages**" arising out of the bankruptcy or insolvency of any insured or any other person or organization providing services, products, or work for or on behalf of any insured.

**c. Bodily Injury**

Bodily injury, sickness, disease, mental injury, mental anguish, emotional distress, shock, or humiliation sustained by a person, including death resulting from any of these at any time.

**d. Ceasing Support**

Any actual, alleged, or threatened decision by any insured to not provide or support, or to cease to provide or support, "**your product**" or "**your work**".

**e. Contractual Liability**

Any liability of others assumed by any insured under any contract or agreement. This exclusion does not apply to liability for "**damages**" that the insured would have in the absence of such contract or agreement.

**f. Cost Guarantees**

Any failure to meet a cost guarantee or estimate of probable costs.

**g. Damage to Property**

"**Damages**" arising out of physical injury to tangible property, including all loss of use arising out of that physical injury. However, "**electronic data**" is not tangible property.

**h. Dishonest Acts**

Any dishonest, fraudulent, criminal, or malicious act committed by or at your direction, or with the consent or knowledge of you or your partners, "**executive officers**", "**managers**", "**members**", "**employees**", or directors, whether acting alone or in collusion with others.

**i. Expected or Intended Damage**

Any "**damages**" expected or intended from the standpoint of the insured.

**j. Insured versus Insured**

Any "**claim**" made or "**suit**" brought by an insured against any other insured.

**k. Intellectual Property**

Any actual or alleged:

- 1) Theft, infringement, dilution, or violation of a patent, trademark, service mark, service name, slogan, title, trade name, trade dress, copyright, or style of doing business;
- 2) Wrongful appropriation or disclosure of trade secrets; or
- 3) Violation of any other intellectual property right or law.

## **I. Microorganisms**

"**Microorganisms**" or any substance, vapor, or gas produced by or arising out of any "**microorganisms**".

## **m. Other Coverage**

"**Damages**" for which coverage is or would have been provided under any commercial general liability or directors and officers liability coverage part or policy, including the exhaustion of the limits of insurance for any such coverage part or policy.

## **n. Owned Property**

Loss or damage to property owned, leased, or rented by any insured.

## **o. Performance Delay**

Any failure or delay by or on behalf of an insured to satisfy a time requirement of a contract or agreement.

This exclusion does not apply if the failure or delay arises out of the failure of "**your product**" or "**your work**" to perform the function or serve the purpose intended.

## **p. Personal and Advertising Injury**

Injury, including consequential body injury, sickness, disease, mental injury, mental anguish, emotional distress, shock, or humiliation sustained by a person, including death resulting from any of these at any time, arising out of one or more of the following offenses:

- 1) False arrest, detention, or imprisonment;
- 2) Malicious prosecution or abuse of process;
- 3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling, or premises that a person or organization occupies, committed by or on behalf of its owner, landlord, or lessor;
- 4) Oral, electronic, or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products, or services;
- 5) Oral, electronic, or written publication, in any manner, of material that violates a person's right of privacy;
- 6) The use of another's advertising idea in your "**advertisement**";
- 7) Infringing upon another's copyright, trade dress, or slogan in your "**advertisement**"; or
- 8) Discrimination of any kind including, but not limited to, discrimination based on race, color, religion, sex, age, or national origin.

## **q. Pollution**

- 1) The actual, alleged, or threatened existence, presence, discharge, dispersal, seepage, migration, release, or escape of "**pollutants**".
- 2) Any loss, cost, or expense arising out of any:

- a) Request, demand, order, or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of **"pollutants"**; or
- b) **"Claim"** or **"suit"** by or on behalf of a governmental authority for **"damages"** because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to, or assessing the effects of **"pollutants"**.

**r. Product Recall**

Any loss, cost, or expense incurred by you or others for the withdrawal, recall, inspection, repair, replacement, adjustment, removal, or disposal of **"your product"** or **"your work"** if such product or work is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy, or dangerous condition in it.

This exclusion does not apply to **"damages"** for loss of use resulting from such withdrawal, recall, inspection, repair, replacement, adjustment, removal, or disposal.

**s. Professional Services**

The rendering or failure to render professional services by any insured in the capacity of an accountant, architect, attorney, health care professional, insurance agent, real estate agent, or structural engineer.

**t. Satellite Malfunction**

Any malfunction of a satellite or failure of a satellite to provide the intended service or fulfill the intended purpose.

**u. Security Breach or Unauthorized Access**

Any actual, alleged, or threatened;

- 1) Security breach;
- 2) Unauthorized access to, or the failure to prevent access to, an electronic system or software product;
- 3) Unauthorized use of, or the failure to prevent the use of, an electronic system or software product; or
- 4) Introduction of a computer virus or similar program;

by any person or organization, including any insured.

**v. Services, Goods, or Equipment for Nuclear Facility**

The furnishing of services, goods, materials, parts, or equipment in connection with the planning, construction, maintenance, operation, or use of any **"nuclear facility"**.

**w. Unfair Competition or Piracy**

Any unfair competition or piracy.

**x. United States Government Prohibitions**

The sale or distribution of **"your product"** or **"your work"** in or to any country, jurisdiction, state, province, person, or organization with which the United States of America government prohibits persons or organizations from conducting commerce.

**y. Violation of Trade Law**

Any actual or alleged violation of any federal or state securities, anti-trust, restraint of trade, unfair trade practices, consumer protection laws, or other similar laws.

**z. Wear and Tear**

Wear and tear or gradual deterioration of "**your product**" or "**your work**".

**aa. Workers' Compensation and Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits, or unemployment compensation law, or any similar law.

**SECTION II -- WHO IS AN INSURED**

**1. If you are designated in the Common Policy Declarations as:**

- a.** An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b.** A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c.** A limited liability company, you are an insured. Your "**members**" are also insureds, but only with respect to the conduct of your business. Your "**managers**" are insureds, but only with respect to their duties as your "**managers**".
- d.** An organization other than a partnership, joint venture, or limited liability company, you are an insured. Your "**executive officers**" and directors are also insureds, but only with respect to their duties as your "**executive officers**" or directors. Your stockholders are also insureds but only with respect to their liability as stockholders.

**2. Each of the following is also an insured:**

- a.** Your "**employees**" but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.
- b.** Any organization you newly acquire or form, other than a partnership, joint venture, or limited liability company, and over which you own a financial interest of 50% or more, will qualify as a Named Insured if there is no other similar insurance available to that organization. This coverage is effective on the acquisition or formation date and is afforded only until the 90<sup>th</sup> day after the acquisition or formation date or the end of the policy period during which the acquisition or formation took place, whichever is earlier. No newly acquired or formed organization is an insured with respect to any "**claim**" arising out of a "**wrongful act**" that occurred before you acquired or formed the organization. An additional premium will apply in accordance with our rules and rates.
- c.** Any entity of which you own a financial interest of 50% or more as of the effective date of this Coverage Part and is not an insured under any other similar insurance.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture, or limited liability company that is not shown as a Named Insured in the Coverage Part Declarations.

## SECTION III -- LIMITS OF INSURANCE -- DEDUCTIBLE

1. The Limits of Insurance shown in the Coverage Part Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. **"Claims"** made or **"suits"** brought; or
  - c. Persons or organizations making **"claims"** or bringing **"suits"**.
2. The Aggregate Limit is the most we will pay for the sum of all **"damages"** and **"defense expenses"**.
3. Subject to 2. above, the Each Claim Limit is the most we will pay for the sum of **"damages"** and **"defense expenses"** that arise out of a single **"claim"**.
4. Subject to 3. above, we will pay only the amount of **"damages"** and **"defense expenses"** in excess of the Each Claim Deductible shown in the Coverage Part Declarations. The Limits of Insurance shall not be reduced by the Each Claim Deductible.

The terms of this Coverage Part, including those with respect to our right and duty to defend any **"suit"** and your duties in the event of a **"claim"**, apply regardless of the Each Claim Deductible amount.

At our sole discretion, we may pay part or all of the Each Claim Deductible to settle any **"claim"**, and when notified, you agree to promptly reimburse us for the amount we pay.

5. When the Each Claim Limit is exhausted by the payment of **"damages"** or **"defense expenses"**, we shall have no further obligation with respect to that **"claim"** or **"suit"**.

When the Aggregate Limit is exhausted by the payment of **"damages"** or **"defense expenses"**, we shall have no further obligation with respect to any **"claim"** or **"suit"**.

When our duty to defend any **"suit"** ends, we will withdraw from the defense as provided in SECTION IV -- CONDITIONS.

6. The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Coverage Part Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

## SECTION IV -- CONDITIONS

### 1. Arbitration

We are entitled to exercise all of the insured's rights in the choice of arbitrators and the conduct of any arbitration proceeding, except when the arbitration is between the insured and us.

### 2. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

### 3. Currency

All currency amounts referred to in this Coverage Part are in United States of America dollars, unless otherwise stated.

### 4. Duties in the Event of a Wrongful Act or Claim

- a. You must see to it that we are notified in writing as soon as practicable of any **"wrongful act"** which may result in a **"claim"**. To the extent possible, notice should include:
  - 1) A description of the **"wrongful act"**;
  - 2) How, when, and where the **"wrongful act"** took place; and
  - 3) The names and addresses of any involved persons or witnesses.
- b. If a **"claim"** is made or a **"suit"** is brought against any insured, you must:
  - 1) Immediately record the specifics of the **"claim"** or **"suit"** and the date received; and
  - 2) Notify us in writing as soon as practicable.
- c. You and any other involved insured must:
  - 1) Immediately send us copies of any demands, notices, summons, or legal papers received in connection with the **"claim"** or **"suit"**;
  - 2) Authorize us to obtain records and other information;
  - 3) Cooperate with us in the investigation or settlement of the **"claim"** or defense against the **"suit"**; and
  - 4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of **"damages"** to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.
- e. For your operations that are within the **"coverage territory"** but outside of the United States of America, including its territories and possessions, a **"freely associated nation"**, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and Canada, the following condition applies:

If you receive notice of any **"claim"** that is believed to be covered by this Coverage Part, you should call your agent or broker immediately. If not available, facsimile the details of the **"claim"** to the Zurich Insurance Claim Office listed below. Be sure to include the policy number and the name of the **"First Named Insured"** in your notice to us.

Zurich Insurance Companies  
1400 American Lane  
Schaumburg, Illinois 60196  
UNITED STATES OF AMERICA  
Facsimile (847) 413-5049

## 5. Failure to Reimburse Deductible

If you fail to promptly reimburse us for deductible amounts we pay, such failure will be considered equivalent to nonpayment of premium for purposes of the Cancellation Condition in the Common Policy Conditions

## 6. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a **"suit"** seeking **"damages"** from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial that occurred in a **"suit"**. But we will not be liable for **"damages"** that are not payable under this Coverage Part or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, and the claimant or the claimant's legal representative.

## 7. Other Insurance

If other valid and collectible insurance is available to the insured for sums we cover under this Coverage Part, our obligations are limited as follows:

- a. This insurance is excess over any other insurance, whether primary, excess, contingent, or on any other basis except for insurance which:
  - 1) Is purchased to apply in excess of this insurance; or
  - 2) States that it applies in excess of the Limits of Insurance shown in the Coverage Part Declarations of this Coverage Part.
- b. We will have no duty to defend the insured against any **"suit"** if any other insurer has a duty to defend the insured against that **"suit"**. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

We will pay only our share of the amount of the **"damages"**, if any, that exceeds the sum of:

- 1) The total amount that all such other insurance would pay for the **"damages"** in the absence of this insurance; and
- 2) The total of all deductible and self-insured retention amounts under all that other insurance.

But we will not pay more than the Limits of Insurance shown in the Coverage Part Declarations.

- c. For your operations that are within the **"coverage territory"** and outside of the United States of America, including its territories and possession, a **"freely associated nation"**, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and Canada, the following conditions also apply:
  - 1) When the insured has **"local insurance"** within any country, jurisdiction, state, or province which covers sums also covered by this Coverage Part, and that **"local insurance"** is provided to the insured by us or by a subsidiary, partner, affiliated, or associated insurance company, any sums that are payable under both the **"local insurance"** and this Coverage Part will be coordinated. The Limits of Insurance available under this Coverage Part will be reduced to the extent of any payment made under the **"local insurance"**.
  - 2) When the insured has **"local insurance"** within any country, jurisdiction, state, or province which covers sums also covered by this Coverage Part, and that **"local insurance"** is provided to the insured by an insurer



other than us, our subsidiaries, partners, affiliated, or associated insurance companies, this insurance will be excess only and will not contribute to any **"local insurance"**. However, if that **"local insurance"** does not respond to a **"claim"** that is covered by this Coverage Part, this insurance will be primary. We will acquire any rights the insured has under that **"local insurance"** to the extent of our payment or payments under this Coverage Part.

This Coverage Part will respond as if you had obtained **"compulsory local insurance"**, whether you have that coverage or not.

- 3) In any country, jurisdiction, state, or province where only **"admitted"** insurance is permitted, notwithstanding anything to the contrary contained above, if **"local insurance"** does not apply to **"damages"** for any reason, other than exhaustion of the limits of insurance of such coverage by payment of **"damages"**, then this Coverage Part does not apply to such **"damages"**.
- 4) When a deductible applies under this Coverage Part or the **"local insurance"**, we will determine which deductible is the larger deductible. You will not pay a larger deductible than the amount of the highest deductible applicable to any one **"claim"**.

## 8. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. If the earned premium is greater than the deposit premium, such difference between the earned and deposit premium is due and payable on notice to the **"First Named Insured"**. If the deposit premium paid for the Coverage Part is greater than the earned premium, we will return the excess to the **"First Named Insured"**.
- c. The **"First Named Insured"** must keep records of the information we need for premium computation and send us copies at such time as we may request.

## 9. Pro Rata Cancellation

If this Coverage Part is canceled for any reason, the earned premium shall be computed pro rata.

## 10. Representations

By accepting this Coverage Part, you agree:

- a. The statements in the Common Policy Declarations and Coverage Part Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this Coverage Part in reliance upon your representations.

## 11. Separation of Insureds

Except with respect to the Limits of Insurance and any rights or duties specifically assigned in the Coverage Part to the **"First Named Insured"**, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a **"claim"** is made or **"suit"** is brought.

## 12. Transfer of Rights of Recovery Against Others

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after the **"claim"** was made to impair them. At our request, the insured will bring **"suit"** or transfer these rights to us and help us enforce them.

## 13. When the Limit of Insurance is Exhausted

- a. Based upon reported **"claims"** to which this insurance applies, if either the Aggregate Limit or Each Claim Limit appears likely to be exhausted, we will attempt to send written notice to that effect to the **"First Named Insured"**.
- b. When the Aggregate Limit or Each Claim Limit is exhausted by the payment of **"damages"** or **"defense expenses"**, we will notify the **"First Named Insured"** in writing as soon as practicable that:
  - 1) The Limit has been exhausted, and
  - 2) We have no further obligations with respect to any **"claims"** or **"suits"** for which the Limit of Insurance has been exhausted.
- c. We will transfer to the **"First Named Insured"** and any other involved insured control of all **"claims"** and defense of all **"suits"** which are subject to the Limit of Insurance and which are reported to us before that Limit of Insurance is exhausted. The **"First Named Insured"** will cooperate in the transfer and arrange for the transfer within a time frame agreed to by us. Absent any agreement, the control of these **"claims"** and defense of the **"suits"** will transfer to the **"First Named Insured"** as soon as practicable.
- d. We agree to cooperate in the transfer and control of **"claims"** and defense of **"suits"** and to take those steps we deem appropriate until the transfer is complete.

The **"First Named Insured"** will reimburse us for expenses we incur in transferring control or defense of these **"claims"** and **"suits"**. Beginning on the date that the limits are exhausted, the **"First Named Insured"** shall promptly reimburse us for costs incurred in the transfer of defense of **"suits"**.

- e. We will not take any action on any **"claim"** or **"suit"** reported to us after the Aggregate Limit of Insurance is exhausted.

## 14. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the **"First Named Insured"** written notice of the nonrenewal not less than 30 days before the expiration date. Written notice of nonrenewal, including the reasons for nonrenewal, shall be mailed or delivered to the **"First Named Insured"** at the last known mailing address. If notice is mailed, proof of mailing will be sufficient proof of notice.

## 15. Worldwide Coverage Provision

The following conditions also apply to your operations that are within the **"coverage territory"** but outside of the United States of America, including its territories and possessions, a **"freely associated nation"**, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and Canada:

### a. Conflict with Local Insurance

Should you or any insured have **"local insurance"** in any country, jurisdiction, state, or province with terms and conditions that are in conflict with this Coverage Part, the terms and conditions of this Coverage Part shall

prevail. However, any conflict over the legality of any provision of this Coverage Part will be governed by subparagraph **c.** below.

#### **b. Income Tax Equalization**

We will pay the amount necessary to make your after tax recovery, in the country, jurisdiction, state, or province where the **"damages"** arose and in the United States of America or Canada, equal to the respective after-tax recoveries that would have existed had the **"damages"** or **"defense expenses"** been payable pursuant to **"local insurance"** in the country, jurisdiction, state, or province where the **"damages"** arose. We will only be liable for the smallest equalization amount possible.

Where options exist that would reduce after-tax recoveries, you and the insured are obligated to make use of those options. Further, where tax losses exist, you and the insured must use them to offset any gains attributable to payments in the country, jurisdiction, state, or province to eliminate any sums payable under this condition.

Nothing in this condition shall increase our liability above the Limits of Insurance shown in the Coverage Part Declarations. In no event shall we be obligated to pay more than \$25,000 in any one 12 month period for all income tax equalization.

We will only pay income tax equalization when both of the following conditions apply:

- 1) The **"damages"** or **"defense expenses"** are covered by this Coverage Part; and
- 2) **"Local insurance"** for the **"damages"** or **"defense expenses"** was not bought or coverage was inadequate in the country, jurisdiction, state, or province where the **"damages"** arose.

#### **c. Legal Agreement**

Nothing contained in this Coverage Part shall require the commission of any act contrary to law. When there is any conflict between the insurance provided under this Coverage Part and any applicable statute, law, ordinance, or regulation in any country, jurisdiction, state, or province, the latter shall prevail. However, only the part of this Coverage Part so affected shall be amended to the extent necessary for compliance with the minimum legal requirement. The validity of the remaining sections of this Coverage Part shall not be affected and the duties and obligations of you and us under the remaining sections shall remain in full force and effect.

#### **d. Local Insurance Requirements**

This Coverage Part is not **"compulsory local insurance"** in any country, jurisdiction, state, or province whether or not this Coverage Part is accepted by local authorities. You have the sole duty to arrange for **"compulsory local insurance"**. If you do not arrange for **"compulsory local insurance"**, this Coverage Part will respond as if you had obtained the **"compulsory local insurance"**.

#### **e. Loss Payments and Defense Expenses**

When we are prohibited by law from defending **"suits"** or paying **"damages"**, we will reimburse the **"First Named Insured"** for such **"damages"** or **"defense expenses"**, payable under this Coverage Part, which the **"First Named Insured"** pays with our consent. The **"First Named Insured"** must do everything in its power to provide an appropriate defense to a **"suit"**. Coverage under this Coverage Part will not apply until the **"local insurance"** or the insured has paid, or is obligated to pay, the full amount of the **"damages"**.

We may settle, where permitted, all **"claims"** at the location of the **"claim"** with your local representatives or any claimants. Such settlements will be paid in United States currency or, when required, in the currency of the country, jurisdiction, state, or province where the **"wrongful act"** occurred. When conversion into another currency from United States currency is required to pay any **"damages"**, the rate of exchange will be

determined on the date of the settlement. The rate of exchange will be the rate we incur in obtaining the foreign currency.

**f. Not Admitted Insurance**

The insurance provided by this Coverage Part is not "**admitted**" insurance in many countries, jurisdictions, states, or provinces. We are not responsible for any fines, taxes, or other penalties you may incur if you failed to obtain "**admitted**" insurance for your operations in any country, jurisdiction, state, or province. We will not provide any required bonds, certificates, or other evidence of insurance where this is not "**admitted**" insurance.

**SECTION V -- EXTENDED REPORTING PERIODS**

1. We will provide one or more Extended Reporting Periods, as described below, if:
  - a. This insurance is canceled or not renewed for other than nonpayment of premium; or
  - b. We renew or replace this Coverage Part with insurance that:
    - 1) Has a Retroactive Date later than the Retroactive Date shown in the Coverage Part Declarations; or
    - 2) Does not apply on a claims-made basis.
2. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and applies to:
  - a. "**Claims**" first made within 90 days after the end of the policy period; and
  - b. "**Claims**" first made within five years after the end of the policy period for "**wrongful acts**" reported to us within 90 days after the end of the policy period.

The Basic Extended Reporting Period does not apply to sums that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such sums.

**3. Supplemental Extended Reporting Period**

- a. A Supplemental Extended Reporting Period is available, but only by an endorsement and for an additional premium. This supplemental period will be for a time period of 5 years starting at the end of the Basic Extended Reporting Period. "**Claims**" first made during this Supplemental Extended Reporting Period will be deemed to have been made during the policy period of this Coverage Part.
- b. You must give us a written request for the Supplemental Extended Reporting Period endorsement within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium for the Supplemental Extended Reporting Period endorsement in accordance with our rules and rates. The additional premium will not exceed 200% of the annual premium for this Coverage Part.

- c. If you comply with subparagraph **b.** above, we will issue the Supplemental Extended Reporting Period endorsement.

The Limits of Insurance and Each Claim Deductible shown in the Coverage Part Declarations will continue to apply, as set forth in SECTION III -- LIMITS OF INSURANCE -- DEDUCTIBLE.

d. The Supplemental Extended Reporting Period endorsement will set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period, including a provision that the insurance afforded for "**claims**" first received during such period is excess over any other insurance, whether primary, excess, contingent, or on any other basis, whose policy period begins or continues after the Supplemental Extended Reporting Period begins.

4. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to "**claims**" for "**wrongful acts**" that occur before the end of the policy period, but not before the Retroactive Date shown in the Coverage Part Declarations.

"**Claims**" which are first received during the Basic Extended Reporting Period, or during the Supplemental Extended Reporting Period, if it is in effect, will be deemed to have been made on the last day of the policy period.

Once in effect, Extended Reporting Periods may not be canceled.

5. Extended Reporting Periods do not reinstate or increase any Limits of Insurance to which this Coverage Part applies.

## SECTION VI -- DEFINITIONS

1. "**Admitted**" means insurance provided by an insurer that is authorized to conduct insurance business within the country, jurisdiction, state, or province where you have operations. This insurer may be a domestic, a foreign, or an alien insurer within the country, jurisdiction, state, or province as long as it is legally authorized to issue or provide "**local insurance**" in that country, jurisdiction, state, or province.

2. "**Advertisement**" means a notice that is broadcast or published to the general public or specific market segments about your goods, products, or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web-sites, only that part of a web-site that is about your goods, products, or services for the purposes of attracting customers or supporters is considered an advertisement.

3. "**Asbestos**" means asbestos in any form, including its presence or use in any alloy, by-product, or other material or waste. Waste includes material to be recycled, reconditioned, or reclaimed.

4. "**By-product material**" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof.

5. "**Claim**" means a written demand, including a "**suit**", which seeks "**damages**" arising from a "**wrongful act**".

6. "**Compulsory local insurance**" means "**local insurance**" that you are required to purchase by statute or regulation within a country, jurisdiction, state, or province.

7. "**Coverage territory**" means anywhere in the world.

8. "**Damages**" mean a monetary amount to compensate because of a "**wrongful act**".

"**Damages**" do not include:

- a. Purchase or contract price for "**your product**" or "**your work**";

- b. Disgorgement of profits, restitution, or any money or credits that represent any gain, profit, or advantage to which you are not legally entitled; or
- c. Criminal or civil penalties.

9. **"Defense expense"** means sums we pay in the investigation, negotiation, settlement, or defense of **"claims"**, including but not limited to:

- a. All costs, fees, and expenses for attorneys, witnesses, experts, investigative services, adjusters, depositions, reported or recorded statements, summonses, service of process, legal transcripts or testimony, or copies of any public record.
- b. Any other costs, fees, or expenses for defending or prosecuting a **"suit"**.
- c. The cost of bonds to appeal a judgment or award in any **"suit"** we defend, but only for bond amounts within the Limits of Insurance available. We do not have to furnish these bonds.
- d. The cost of bonds to release attachments, but only for bond amounts within the Limits of Insurance available. We do not have to furnish these bonds.
- e. Reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the **"claim"** or **"suit"**, including actual loss of earnings up to \$500 a day because of time off from work.
- f. Costs taxed against the insured in the **"suit"**.
- g. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- h. Interest on the full amount of any judgment that accrues after entry of the judgment or award and before we have paid, offered to pay, or deposited in court the part of the judgment or award that is within the Limits of Insurance available.

**"Defense expense"** does not include:

- a. Salaries and expenses of our **"employees"** or the insured's **"employees"**, other than:
  - 1) That portion of fees, salaries, and expenses of our employed attorneys allocated to a specific **"suit"**; and
  - 2) The expenses described in **e.** above; or
- b. Fees and expenses of independent adjusters we hire.

10. **"Electronic data"** means information, facts, or programs stored as or on, created, or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices, or any other media which are used with electronically controlled equipment.

11. **"Employee"** includes a **"leased worker"**. **"Employee"** does not include a **"temporary worker"**, **"executive officer"**, **"manager"**, **"member"**, director, or partner.

12. **"Executive officer"** means a person holding any of the officer positions created by your charter, constitution, by-laws, or any other similar governing document.

13. **"First Named Insured"** means the first person or organization named in paragraph 1., Named Insured, of the Coverage Part Declarations.
14. **"Freely associated nation"** means an independent country, jurisdiction, state, or province that has chosen by plebiscite to enter into a compact or contract of association with the United States of America. Such nation uses the United States Postal Service and United States currency. Nations such as the former trust territories, the Federated States of Micronesia, and the Republic of Palau are **"freely associated nations"**.
15. **"Fungus"** means any type or form of fungus, mold, or mildew and any mycotoxins, spores, scents, or by-products produced or released by fungi, mold, or mildew.
16. **"Key insurance contact"** means your corporate risk manager and any **"employee"** who is responsible for your insurance or **"claim"** reporting.
17. **"Leased worker"** means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. **"Leased worker"** does not include a **"temporary worker"**.
18. **"Local insurance"** means **"admitted"** insurance issued to you or which was secured on your behalf within any country, jurisdiction, state, or province outside of the United States of America, its territories, and possessions, a **"freely associated nation"**, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or Canada.
19. **"Manager"** means a person elected by the **"members"** to direct the limited liability company's business affairs.
20. **"Member"** means an owner of a limited liability company represented by its membership interest, who also may serve as a **"manager"**.
21. **"Microorganism"** means any type or form of organism of microscopic or ultramicroscopic size including, but not limited to, **"fungus"**, wet or dry rot, virus, algae, bacteria, or any by-product.
22. **"Nuclear facility"** means:
- a. Any **"nuclear reactor"**;
  - b. Any equipment or device designed or used for:
    - 1) Separating the isotopes of uranium or plutonium;
    - 2) Processing or utilizing **"spent fuel"**; or
    - 3) Handling, processing, or packaging **"nuclear waste"**;
  - c. Any equipment or device used for the processing, fabricating, or alloying of **"special nuclear material"** if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235; or
  - d. Any structure, basin, excavation, premises, or place prepared or used for the storage or disposal of **"nuclear waste"**;

and includes the site on which any of the foregoing is located, all operations conducted on such site, and all premises used for such operations.

23. **"Nuclear reactor"** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
24. **"Nuclear waste"** means any waste material:
- a. Containing **"by-product material"** other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **"source material"** content; and
  - b. Resulting from the operation by any person or organization of any **"nuclear facility"** included under the subparagraphs a. and b. of the definition of **"nuclear facility"**.
25. **"Original effective date"** means the date on which this coverage was first effective with us without any interruption.
26. **"Pollutants"** means any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned, or reclaimed.
27. **"Source material"** has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof.
28. **"Special nuclear material"** has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof.
29. **"Spent fuel"** means any fuel element or fuel component, solid, or liquid, which has been used or exposed to radiation in a **"nuclear reactor"**.
30. **"Suit"** means a civil proceeding in which **"damages"** to which this insurance applies are sought. **"Suit"** includes:
- a. An arbitration proceeding in which such **"damages"** are sought and to which the insured must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such **"damages"** are sought and to which the insured submits with our consent.
31. **"Temporary worker"** means a person who is furnished to you for any period of time to support or supplement your work force in special work situations, such as employee absences, temporary skill shortages, upturns or downturns in business, and seasonal workloads. **"Temporary worker"** does not include **"leased worker"**.
32. **"Wrongful act"** means an error or omission by or on behalf of any insured, not otherwise excluded.
33. **"Your product"** means:
- a. Any goods or products manufactured, developed, designed, created, sold, handled, licensed, marketed, distributed, or disposed of by you or on your behalf, including but not limited to:
    - 1) Computer software or computer programming;
    - 2) Electronic or computer equipment, components, or peripherals;
    - 3) Telecommunications or broadcasting equipment; or
    - 4) Industrial or robotic equipment; and
  - b. Containers (other than vehicles), materials, parts, or equipment furnished in connection with such goods or products.
- "Your product"** includes:



- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance, or use of **"your product"**; and
- b. The providing of or failure to provide warnings or instructions.

**34. "Your work" means:**

- a. Work or operations performed by you or on your behalf, including but not limited to:
  - 1) Installation, service, technical support, system integration, maintenance, repair, consulting, or analysis of:
    - a) Computer software or computer programming;
    - b) Electronic or computer equipment, components, or peripherals;
    - c) Telecommunications or broadcasting equipment; or
    - d) Industrial or robotic equipment;and any training services provided in conjunction with the above activities;
  - 2) Electronic processing, management, mining, or warehousing of data or records for others;
  - 3) Providing multimedia services, including but not limited to:
    - a) Television broadcasting;
    - b) Cable and satellite broadcasting;
    - c) Radio broadcasting;
    - d) Electronic broadcasting;
    - e) Internet access; or
    - f) Website design;
  - 4) Providing telecommunication services, including but not limited to:
    - a) Wire based telecommunications;
    - b) Wireless telecommunications; or
    - c) Paging services; and
  - 5) Administration, management, operation, or hosting of systems, technology, or computer facilities for another person or organization; and
- b. Materials, parts, or equipment furnished in connection with such work or operations.

**"Your work" includes:**

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance, or use of **"your work"**; and

- b.** The providing of or failure to provide warnings or instructions.



**ZURICH**

## **Additional Insured -- Vendors**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

### **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

#### **SCHEDULE**

#### **Vendor (Person or Organization)**

SECTION II -- WHO IS AN INSURED is amended to include as an insured the vendor shown in the Schedule above, but only with respect to the **"damages"** arising out of **"your products"** which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

The insurance afforded the vendor does not apply to **"damages"** arising out of:

#### **1. Components or Parts**

Any product in which the vendor incorporates **"your product"** as a component or part.

#### **2. Vendor Changes**

Any changes, alterations, or modifications made to **"your product"** by the vendor.

#### **3. Failure to Maintain Condition**

Any failure of the vendor to maintain **"your product"** in a merchantable condition or to keep **"your product"** fit for the intended use.

#### **4. Inspections, Adjustments, Testing, or Servicing**

Any failure of the vendor to perform inspections, adjustments, testing, or servicing of **"your product"** that was sold or distributed by the vendor.

#### **5. Programming or Instructions**

Any **"wrongful act"** committed by the vendor in programming, directing, or instructing anyone concerning the use of **"your product"**.

#### **6. Unauthorized Sales**

Any unauthorized sale or distribution of **"your product"**.

#### **7. Unauthorized Express Warranties**

Any express warranty not authorized by you.

#### **8. Vendors Sole Negligence**

Any **"wrongful act"** committed solely by the vendor or someone acting on the vendors's behalf.



## Consent to Settle

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

### **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

The following is added as a subparagraph to paragraph 1. of SECTION I -- COVERAGE:

We will not settle any "**claim**" without your consent. However, if you withhold consent to such settlement, the most we will pay for "**damages**" and "**defense expenses**" shall not exceed the amount for which the "**claim**" could have been settled and "**defense expenses**" incurred up to the date the consent was withheld, subject to the provisions of SECTION III -- LIMITS OF INSURANCE -- DEDUCTIBLE.



## Exclusion -- Developmental Risk

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

### **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

The following exclusion is added to paragraph **2. Exclusions** of SECTION I -- COVERAGE:

This insurance does not apply to:

#### **Developmental Risk**

Any "**damages**" incurred or sustained prior to acceptance of "**your products**" or "**your work**" by any of your customers.



## **Exclusion -- Electronic Funds Transfer**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

### **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

The following exclusion is added to paragraph **2. Exclusions** of SECTION I -- COVERAGE:

This insurance does not apply to:

#### **Electronic Funds Transfer**

Any "**claim**" or "**suit**" arising out of an electronic funds transfer.



**ZURICH**

## **Exclusion -- Intellectual Property**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

### **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

Exclusion **k**. Intellectual Property of SECTION I -- COVERAGE is deleted and replaced by the following:

#### **k. Intellectual Property**

Any actual or alleged:

- 1)** Theft, infringement, dilution, or violation of a patent, trademark, service mark, service name, slogan, title, trade name, trade dress, or style of doing business;
- 2)** Wrongful appropriation or disclosure of trade secrets; or
- 3)** Violation of any other intellectual property right or law;

But, this exclusion does not apply to the actual or alleged theft, infringement, dilution, or violation of copyright.

## **Exclusion -- Newly Acquired or Formed Organizations**



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

**TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

**SCHEDULE**

**Organization**

This insurance does not apply to the organizations shown in the Schedule above.





## **Exclusion -- Professional Services**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

### **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

#### **SCHEDULE**

##### **Description of Professional Services**

Exclusion **s.** Professional Services of SECTION I -- COVERAGE is deleted and replaced by the following:

##### **s. Professional Services**

The rendering or failure to render professional services by any insured in the capacity of an accountant, architect, attorney, health care professional, insurance agent, real estate agent, structural engineer, or the professional services described in the Schedule above.



**ZURICH**

## Multiple Retroactive Dates

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

### **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE PART**

#### **SCHEDULE**

**Named Insureds**

**Retroactive Date**

The Retroactive Date shown in the Coverage Part Declarations does not apply to the Named Insureds shown in the Schedule above.

The Retroactive Dates shown in the Schedule above apply to any "**damages**" because of a "**wrongful act**" by that Named Insured, including the "**executive officers**", directors, partners, "**managers**", "**members**", stockholders, and "**employees**" of the Named Insured that occurs on or after the Retroactive Date shown in the Schedule above and before the end of the policy period.

All references to Retroactive Date in this Coverage Part will apply in accordance with this endorsement.

# Multiple Retroactive Dates -- Designated Products or Work



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

## **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE PART**

### **SCHEDULE**

**"Your Product" or "Your Work"**

**Retroactive Date**

The Retroactive Date shown in the Coverage Part Declarations does not apply to **"your product"** or **"your work"** identified or described in the Schedule above.

The Retroactive Dates shown in the Schedule above apply to any **"damages"** because of a **"wrongful act"** that occurs on or after the Retroactive Date shown in the Schedule above and before the end of the policy period:

- a)** Resulting from the failure of **"your product"** identified or described in the Schedule above to perform the function or serve the purpose intended; or
- b)** In the performance of or non-performance of **"your work"** identified or described in the Schedule above.

All references to Retroactive Date in this Coverage Part will apply in accordance with this endorsement.

# Newly Acquired or Formed Organizations -- Prior Acts Coverage



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

## **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

Paragraph **2.b.** of SECTION II -- WHO IS AN INSURED is deleted and replaced by the following:

- b.** Any organization you newly acquire or form, other than a partnership, joint venture, or limited liability company, and over which you own a financial interest of 50% or more, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- 1)** You must provide us notice of such acquisition or formation within 30 days of the effective date of your acquisition or formation;
  - 2)** Coverage under this provision is afforded only until the 90th day after the acquisition or formation date or the end of the policy period, whichever is earlier; and
  - 3)** You must pay us any additional premium due in accordance with our rules and rates as a condition precedent.

This paragraph does not apply to any organization shown in the Coverage Part Declarations or added to this Coverage Part by endorsement.

## Other Insurance Condition



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

### **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

Paragraph **b.** of **7. Other Insurance** of SECTION IV -- CONDITIONS is deleted and replaced by the following:

- b.** We will have no duty to defend the insured against any **"suit"** if any other insurer has a duty to defend the insured against that **"suit"**. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

We will pay only our share of the amount of the **"damages"**, if any, that exceeds the sum of:

- 1)** The total amount that all such other insurance would pay for the **"damages"** in the absence of this insurance; and
- 2)** The total of all deductible and self insured retention amounts under all that other insurance.

If the other insurance applies on the same basis as this insurance and was not bought specifically to apply in excess of this insurance, we will share the amount of **"damages"** based on the ratio of the applicable Limits of Insurance to the total applicable limits of insurance of all insurers.

But we will not pay more than the Limits of Insurance shown in the Declarations of this Coverage Part.

Retroactive Date Applicable to  
Increased Limits of Insurance



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM

SCHEDULE

Endorsement Effective Date	_____
Retroactive Date	_____
Limits of Insurance	
Aggregate Limit	\$ _____
Each Claim Limit	\$ _____

The following is added to SECTION III -- LIMITS OF INSURANCE -- DEDUCTIBLE:

The Limits of Insurance shown in the Schedule above apply to any "**damages**" because of a "**wrongful act**" that occurs on or after the Retroactive Date shown in the Schedule above and before the end of the policy period.

# Security Breach or Unauthorized Access Coverage



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

## **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

Exclusion **u.** Security Breach or Unauthorized Access of SECTION I – COVERAGE is deleted.



**ZURICH**

# Self Insured Retention Including Defense Expenses

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

## **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE PART**

### **SCHEDULE**

**EACH CLAIM SELF INSURED RETENTION AMOUNT                      \$**

### **AUTHORIZED CLAIM SERVICE PROVIDER**

The insurance provided by this Coverage Part is subject to the following additional provisions which, in the event of conflict with any other provisions of the Coverage Part, will control the application of the insurance to which this endorsement applies.

#### **A. Your Obligations within the Self Insured Retention Amounts**

1. The Each Claim Self Insured Retention Amount stated in the Schedule above applies as follows:

It is a condition precedent to our obligations under this Coverage Part that you make actual **"self insured retention"** payments equal to the Each Claim Self Insured Retention Amount. The Each Claim Self Insured Retention Amount is the most you will pay for **"damages"** and **"defense expenses"** resulting from a **"claim"**, regardless of the number of persons or organizations making **"claims"** or bringing **"suits"** arising out of any one **"wrongful act"** or series of related **"wrongful acts"**.

2. **Payments by Others**

Any payment by others, including but not limited to additional insureds or insurers, does not serve to satisfy the Each Claim Self Insured Retention Amount.

3. **Your Insolvency or Bankruptcy**

Your payment of the Each Claim Self Insured Retention Amount, as a condition precedent to our obligations under this Coverage Part, applies regardless of your insolvency or bankruptcy.

4. **Defense Expenses**

You must pay all **"defense expenses"** as they are incurred until you have paid **"damages"** and **"defense expenses"** equal to the Each Claim Self Insured Retention Amount. If the amount of **"damages"** and **"defense expenses"** is less than the Each Claim Self Insured Retention Amount stated above, we have no obligation to pay any **"damages"** and **"defense expenses"** under this Coverage Part.

5. **Settlement of Claims**

You may not settle any **"claim"** for an amount in excess of the Each Claim Self Insured Retention Amount without our written consent. If you fail to obtain such written consent, we have no obligations under this Coverage Part with respect to that **"claim"**.



## 6. Authorized Claim Service Provider

- a. You must employ a claim service provider acceptable to us for the purpose of providing claim services for the investigation and settlement of "**claims**". You must pay all fees, charges, and costs of the claim service provider in addition to the Each Claim Self Insured Retention Amounts, without any reimbursement from us.
- b. In the event of cancellation, expiration, or revision of the claims service agreement between you and the claim service provider, you must notify us within 10 days of such cancellation, expiration, or revision and replace the claim service provider with another claim service provider that is acceptable to us.
- c. You must allow us to audit the claim service provider and provide supervisory claim service, at our expense.

## 7. Notification of a Wrongful Act

- a. You must see to it that we are notified in writing as soon as practicable of any "**wrongful act**" which may result in a "**claim**" under this Coverage Part. Notice must include:
  - 1) A description of the "**wrongful act**";
  - 2) How, when, and where the "**wrongful act**" took place;
  - 3) The names and addresses of any involved persons and witnesses; and
  - 4) The nature and location of any injury or damage arising out of the "**wrongful act**".
- b. You must provide the notice specified in paragraph 1. above without regard to liability.

## 8. Reporting of Claims or Suits within the Self Insured Retention

- a. You must report to us all "**claims**" or "**suits**" received by an insured within 30 days following the receipt of the "**claim**" or "**suit**". At a minimum, the following should be reported for each "**claim**" or "**suit**":
  - 1) A description of each "**claim**" or "**suit**";
  - 2) The date of the "**wrongful act**";
  - 3) The amounts paid and reserved for future payments for "**damages**" and "**defense expenses**"; and
  - 4) The current status of the "**claim**" or "**suit**".
- b. Every 90 days thereafter, you must give us an updated report of the status of all "**claims**" and "**suits**", both paid and reserved, until all "**claims**" and "**suits**" made during the policy period are closed or settled.
- c. Your compliance with these reporting requirements is a condition precedent to our obligations under this Coverage Part.

## 9. Representations

By acceptance of this Coverage Part, you agree that you have not and will not procure insurance for all or any part of the "**self insured retention**". If such insurance is procured, we have no obligations under this Coverage Part.

## B. Our Rights and Obligations Excess of the Self Insured Retention Amounts

### 1. Self insured Retention – Your Failure to Respond

In the event of your refusal to respond to your obligations for the payment of the "**self insured retention**" equal to the Each Claim Self insured Retention Amount, for any reason, we will not make payments for you and in no

event will we be required to substitute for you as respects your responsibility for payment of any Each Claim Self Insured Retention Amount.

## 2. Damages and Defense Expenses in Excess of the Each Claim Self Insured Retention Amount

We will be liable only for "**damages**" and "**defense expenses**" in excess of the Each Claim Self Insured Retention Amount, up to the applicable Limits of Insurance shown in the Coverage Part Declarations.

## 3. Settlement of Claims and Defense of Suits

- a. We may, at our discretion, investigate any "**wrongful act**" and settle any "**claim**" or "**suit**" that may result. However, we will obtain your consent prior to settling a "**claim**" or "**suit**" for an amount within the Each Claim Self Insured Retention Amount. If, however, you refuse to consent to any settlement for an amount within the Each Claim Self Insured Retention Amount, our obligations with respect to that "**claim**" or "**suit**" will not exceed the amount determined by subtracting the Each Claim Self Insured Retention Amount from the amount for which the "**claim**" or "**suit**" could have been settled, including "**defense expenses**" incurred to the date of such refusal. We have no obligations with respect to such "**claim**" or "**suit**" if that difference is zero or negative.
- b. With respect to any "**claim**" or "**suit**" which may exceed the Each Claim Self Insured Retention Amount, we may pay any or all of the Each Claim Self Insured Retention Amount on your behalf to settle the "**claim**" or "**suit**". Such amount paid by us must be reimbursed promptly by the "**First Named Insured**".
- c. We may, at our discretion, defend any "**suit**". However, you will not be liable to reimburse us for "**defense expenses**" we incur.

## C. Cancellation

If this Coverage Part is canceled for any reason, the Each Claim Self Insured Retention Amount will not be reduced. The Each Claim Self Insured Retention Amount will apply as if the policy had not been canceled.

## D. Extended Reporting Periods

The Each Claim Self Insured Retention Amount applies to "**claims**" made during an Extended Reporting Period.

## E. Definitions

SECTION VI – DEFINITIONS of the Technology Errors and Omissions Protection Coverage Form is amended as follows:

1. The definition "**defense expense**" is deleted and replaced by the following:

"**Defense expense**" means sums you or we pay in the investigation, negotiation, settlement, or defense of "**claims**", including but not limited to:

- a. All costs, fees, and expenses for attorneys, witnesses, experts, investigative services, adjusters, depositions, reported or recorded statements, summonses, service of process, legal transcripts or testimony, or copies of any public record.
- b. Any other costs, fees, or expenses for defending a "**suit**".
- c. Reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the "**claim**" or "**suit**", including actual loss of earnings up to \$500 a day because of time off from work.
- d. Costs taxed against the insured in the "**suit**".

"**Defense expense**" does not include:

- a. Salaries and expenses of our **"employees"** or the insured's **"employees"**;
- b. Fees and expenses of independent adjusters you or we hire; or
- c. Fees and expenses of your claim service provider.

2. The following definition is added to SECTION VI -- DEFINITIONS:

**"Self insured retention"** means sums you are required to pay for all **"damages"** and **"defense expenses"** pursuant to this endorsement.

Insured Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# Arkansas Changes



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

## **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

1. Paragraph 5. Failure to Reimburse Deductible of SECTION IV -- CONDITIONS is deleted.
2. Paragraph 1. of Section V -- Extended Reporting Periods is deleted and replaced by the following:
  1. We will provide one or more Extended Reporting Periods, as described below if:
    - a. This insurance is canceled or not renewed.
    - b. We renew or replace this Coverage Part with insurance that:
      - 1) Has a Retroactive Date later than the Retroactive Date shown in the Coverage Part Declarations; or
      - 2) Does not apply on a claims-made basis.

3. Paragraph 3. of Section V – Extended Reporting Periods is deleted and replaced by the following:

### **3. Supplemental Extended Reporting Period**

- a. A Supplemental Extended Reporting Period is available, but only by endorsement and for an additional premium. This supplemental period will be for a time period of 5 years starting at the end of the Basic Extended Reporting Period. "**Claims**" first made during this Supplemental Extended Reporting Period will be deemed to have been made during the policy period of this Coverage Part.
- b. You must give us a written request for the Supplemental Extended Reporting Period endorsement within the greater of either 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium for the Supplemental Extended Reporting Period endorsement in accordance with our rules and rates. The additional premium will not exceed 200% of the annual premium for this Coverage Part.

- c. If you comply with subparagraph **b.** above, we will issue the Supplemental Extended Reporting Period endorsement and will provide a separate Aggregate Limit as described below, but only for "**claims**" to which this paragraph **3.** applies.

The Each Claim Limit of Insurance and Each Claim Deductible shown in the Coverage Part Declarations will continue to apply, as set forth in SECTION III – LIMITS OF INSURANCE – DEDUCTIBLE.

The Supplemental Aggregate Limit of Insurance will be equal to the Aggregate Limit of Insurance shown in the Coverage Part Declarations in effect at the end of the policy period.

- d. The Supplemental Extended Reporting Period endorsement will set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect

that the insurance afforded for "**claims**" first received during such policy period is excess over any other insurance, whether primary, excess, contingent, or on any other basis, whose policy period begins or continues after the Supplemental Extended Reporting Period begins.

4. Paragraph 5. of Section V – Extended Reporting Periods is deleted and replaced by the following:
  5. Extended Reporting Periods do not reinstate or increase the Limit of Insurance applicable to any "**claim**" to which this Coverage Part applies, except to the extent described in paragraph 3. above.

## **Rate Information**

Rate data does NOT apply to filing.

## Rate/Rule Schedule

Review Status:	Exhibit Name:	Rule # or Page #:	Rate Action	Previous State Filing Attachments Number:
Approved	State Exception Page - Arkansas	AR-1 (12 06)	New	Arkansas Exception Pages for E & O Filing.pdf

TECHNOLOGY

STATE EXCEPTION PAGES – ARKANSAS

OPTIONAL USE ENDORSEMENTS

SUPPLEMENTAL EXTENDED REPORTING PERIOD COVERAGE (TEO-0215)

This form and rule does not apply to risks domiciled in the state of Arkansas.

SUPPLEMENTAL EXTENDED REPORTING PERIOD – AGGREGATE  
REINSTATEMENT (TEO-0216)

Use- To provide a supplemental extended reporting period. This form reinstates the aggregate for the supplemental reporting period.

Rates- Refer to company. Per policy condition, premium charge cannot exceed 200% of latest annual Technology Errors and Omissions policy premium charged to the insured.



## Supporting Document Schedules

		<b>Review Status:</b>				
<b>Satisfied -Name:</b>	Uniform Transmittal Document-Property & Casualty	Approved	07-12-2007			
<b>Comments:</b>						
<b>Attachment:</b>						
NAIC transmittal.pdf						
		<b>Review Status:</b>				
<b>Satisfied -Name:</b>	Explanatory memorandum and chart of optional endorsements	Approved	07-12-2007			
<b>Comments:</b>						
<b>Attachments:</b>						
Final expl memo.pdf						
Optional use endorsements.pdf						

## Property &amp; Casualty Transmittal Document

<b>1. Reserved for Insurance Dept. Use Only</b>	<b>2. Insurance Department Use only</b>	
	a. Date the filing is received:	
	b. Analyst:	
	c. Disposition:	
	d. Date of disposition of the filing:	
	e. Effective date of filing:	
	New Business	
	Renewal Business	
	f. State Filing #:	
	g. SERFF Filing #:	
h. Subject Codes		

<b>3. Group Name</b>	Zurich North America				<b>Group NAIC #</b>	212
<b>4. Company Name(s)</b>	<b>Domicile</b>	<b>NAIC #</b>	<b>FEIN #</b>	<b>State #</b>		
Zurich American Insurance Company	NY	16535	36-4233459			
American Guarantee & Liability Insurance Company	NY	26247	36-6071400			
American Zurich Insurance Company	IL	40142	36-3141762			
Zurich American Insurance Company of Illinois	IL	27855	36-2781080			

<b>5. Company Tracking Number</b>	CW PR 26144
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## Contact Info of Filer(s) or Corporate Officer(s) [include toll-free number]

6.	Name and address	Title	Telephone #s	FAX #	e-mail
	Patricia E. Chudik Regulatory Services Analyst Zurich North America 1400 American Lane Schaumburg, Illinois 60196	Regulatory Services Analyst	847 605-7714	847 605-7768	pat.chudik@zurichna.com

<b>7.</b>	Signature of authorized filer	<i>Patricia E. Chudik</i>
<b>8.</b>	Please print name of authorized filer	Patricia E. Chudik

## Filing information (see General Instructions for descriptions of these fields)

<b>9. Type of Insurance (TOI)</b>	17.0001
<b>10. Sub-Type of Insurance (Sub-TOI)</b>	17.0019
<b>11. State Specific Product code(s)(if applicable)[See State Specific Requirements]</b>	
<b>12. Company Program Title (Marketing title)</b>	Technology Errors and Omissions Protection Coverage
<b>13. Filing Type</b>	<input type="checkbox"/> Rate/Loss Cost <input type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input checked="" type="checkbox"/> Forms <input type="checkbox"/> Combination Rates/Rules/Forms <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other (give description)
<b>14. Effective Date(s) Requested</b>	New: 08-01-2007   Renewal: 08-01-2007
<b>15. Reference Filing?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>16. Reference Organization (if applicable)</b>	NA
<b>17. Reference Organization # &amp; Title</b>	NA

<b>18.</b>	<b>Company's Date of Filing</b>	06-27-2007
<b>19.</b>	<b>Status of filing in domicile</b>	<input type="checkbox"/> Not Filed <input checked="" type="checkbox"/> Pending <input type="checkbox"/> Authorized <input type="checkbox"/> Disapproved

PC TD-1 pg 1 of 2

## Property & Casualty Transmittal Document—

<b>20.</b>	<b>This filing transmittal is part of Company Tracking #</b>	CW PR 26144
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<b>21.</b>	<b>Filing Description</b> [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]
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In accordance with your state's filing requirements, submitted for your review and approval are the forms for use with our new proprietary Technology Errors and Omissions Protection Coverage program.

Please see the explanatory memorandum for a complete description of this filing.

The rating rules have been submitted in a separate SERFF filing.

We request that this filing becomes effective on August 1, 2007, or as soon as statutes permit.

**Filing Fees** (Filer must provide check # and fee amount if applicable)

**Check #: 3400248290**

**Amount: \$50.00**

**Refer to each state's checklist for additional state specific requirements or instructions on calculating fees.**

\*\*\*Refer to the each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)

PC TD-1 pg 2 of 2

**FORM FILING SCHEDULE**

(This form must be provided ONLY when making a filing that includes forms)

(Do not refer to the body of the filing for the forms listing, unless allowed by state.)

<b>1.</b>	<b>This filing transmittal is part of Company Tracking #</b>		CW PR 26144		
<b>2.</b>	<b>This filing corresponds to rate/rule filing number</b> (Company tracking number of rate/rule filing, if applicable)		NA		
<b>3.</b>	<b>Form Name /Description/Synopsis</b>	<b>Form # Include edition date</b>	<b>Replacement Or withdrawn?</b>	<b>If replacement, give form # it replaces</b>	<b>Previous state filing number, if required by state</b>
01	Technology Errors and Omissions Protection Coverage Part Declarations	TEO-0001 (12 06)	<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
02	Technology Errors and Omissions Protection Coverage Form	TEO-0101 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
03	Additional Insured – Vendors	TEO-0201 (12 06)	<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
04	Consent to Settle	TEO-0202 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
05	Exclusion – Developmental Risk	TEO-0203 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
06	Exclusion – Electronic Funds Transfer	TEO-0204 (12 06)	<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
07	Exclusion – Intellectual Property	TEO-0205 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
08	Exclusion – Newly Acquired or Formed Organizations	TEO-0206 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
09	Exclusion – Professional Services	TEO-0207 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
10	Multiple Retroactive Dates	TEO-0208 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
11	Multiple Retroactive Dates – Designated Products or Work	TEO-0209 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
12	Newly Acquired or Formed Organizations – Prior Acts Coverage	TEO-0210 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
13	Other Insurance Condition	TEO-0211 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
14	Retroactive Date Applicable to Increased Limits of Insurance	TEO-0212 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA
15	Security Breach or Unauthorized Access Coverage	TEO-0213 (12 06)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	NA	NA

16	Self Insured Retention Including Defense Expenses	TEO-0214 (12 06)	[ <input checked="" type="checkbox"/> ] New [ <input type="checkbox"/> ] Replacement [ <input type="checkbox"/> ] Withdrawn	NA	NA
17	Supplemental Extended Reporting Period	TEO-0215 (12 06)	[ <input checked="" type="checkbox"/> ] New [ <input type="checkbox"/> ] Replacement [ <input type="checkbox"/> ] Withdrawn	NA	NA

PC FFS-1

**FILING MEMORANDUM  
TECHNOLOGY PROGRAM  
ERRORS AND OMISSIONS COVERAGE - FORM FILING**

**PURPOSE OF THIS FILING**

The companies of Zurich North America are filing for approval of our Technology Errors and Omissions Protection program.

We are filing this coverage form in response to industry trends and customer needs. This program addresses the global nature of the industry and features broader coverage than typically offered by other programs of this sort. A variety of endorsements will provide flexibility in tailoring coverage to meet the requirements of individual insureds.

This coverage may be attached to a package policy that contains the ISO commercial general liability occurrence coverage part. Required ISO state amendatory endorsements will be included with these policies. If the Technology Errors & Omissions is written as a stand-alone policy, the ISO state amendatory endorsements relating to cancellation and nonrenewal will be included on that policy.

Manual rules contained in our companion rate/rule filing provide a description of the various types of businesses targeted by this program.

**EXPLANATION OF FORMS**

We are filing the forms listed below. Where "see chart" is indicated, please refer to the enclosed "New Endorsements" chart for an explanation of that form.

TEO-0001 (12 06) - Technology Errors And Omissions Protection Coverage Part Declarations  
This is the declarations page that will be used with form TEO-0101.

TEO-0101 (12 06) - Technology Errors And Omissions Protection Coverage Form  
This is the main coverage form providing errors and omissions liability coverage for Technology business.

TEO-0201 (1206) - Additional Insured - Vendors  
See chart.

TEO-0202 (1206) - Consent To Settle  
See chart.

TEO-0203 (1206) - Exclusion - Developmental Risk  
See chart.

TEO-0204 (1206) - Exclusion -- Electronic Funds Transfer  
See chart.

TEO-0205 (1206) - Exclusion -- Intellectual Property  
See chart.

TEO-0206 (1206) - Exclusion - Newly Acquired Or Formed Organizations

**FILING MEMORANDUM  
TECHNOLOGY PROGRAM  
ERRORS AND OMISSIONS COVERAGE - FORM FILING**

See chart.

TEO-0207 (1206) – Exclusion--Professional Services

See chart.

TEO-0208 (1206)- Multiple Retroactive Dates

See chart.

TEO-0209 (1206) - Multiple Retroactive Dates - Designated Products Or Work

See chart.

TEO-0210 (1206) - Newly Acquired Or Formed Organizations - Prior Acts Coverage

See chart.

TEO-0211 (1206) – Other Insurance Condition

See chart.

TEO-0212 (1206) – Retroactive Date Applicable to Increased Limits of Insurance

See chart.

TEO-0213 (1206) – Security Breach or Unauthorized Access Coverage

See chart.

TEO-0214 (1206) – Self Insured Retention Including Defense Expenses

See chart.

TEO-0215 (1206) - Supplemental Extended Reporting Endorsement

See chart.



NEW ENDORSEMENTS	
FORM NUMBER AND TITLE	DESCRIPTION
TEO-0201 (1206) - Additional Insured -- Vendors	This optional use endorsement grants insured status to vendors of the Named Insured's products for the vendor's vicarious liability.
TEO-0202 (1206) - Consent to Settle	This optional use endorsement provides for the Named Insured to have input on each claim and grant consent to settlement. If consent is not given, we will not be liable for amounts in excess of that settlement.
TEO-0203 (1206) - Exclusion – Developmental Risk	The Coverage Form does not contain any exclusion for losses arising out of installation or testing of products or products in development phase. This optional use endorsement allows us to restrict coverage for such losses. This endorsement allows us to offer Errors and Omissions coverage on risks that may otherwise be difficult or unacceptable to write.
TEO-0204 (1206) – Exclusion – Electronic Funds Transfer	This optional use endorsement is available when the Insured's products or work present significant potential for losses resulting directly from electronic funds transfers.
TEO-0205 (1206) – Exclusion – Intellectual Property	This optional endorsement is used to modify the existing Intellectual Property exclusion in the Coverage Form and grant coverage for copyright infringement.
TEO-0206 (1206) - Exclusion -- Newly Acquired or Formed Organizations	This optional use endorsement eliminates insured status of the newly acquired or formed organization(s) listed in the endorsement schedule.
TEO-0207 (1206) – Exclusion – Professional Services	This optional endorsement expands on the exclusion contained in TEO-0101 by allowing additional professional services to be added from those shown in the Coverage Form.
TEO-0208 (1206) - Multiple Retroactive Dates	This optional use endorsement is used to provide different retroactive dates for designated Named Insureds. For example, when the insured has a subsidiary or newly acquired entity, the retroactive dates for each entity may not be concurrent. In the event one Insured entity has a later retroactive date than the first Named Insured, this endorsement allows us to maintain the retroactive dates on each Insured entity.

NEW ENDORSEMENTS	
FORM NUMBER AND TITLE	DESCRIPTION
TEO-0209 (1206) - Multiple Retroactive Dates -- Designated Products or Work	This optional use endorsement is used to provide different retroactive dates for designated products or work. Sometimes we may offer a current retroactive date on some designated products or work, while maintaining an earlier retroactive date on other products or work. This endorsement allows us to offer Errors and Omissions coverage on risks that may otherwise be difficult or unacceptable to write.
TEO-0210 (1206) - Newly Acquired or Formed Organizations -- Prior Acts Coverage	The Coverage Form grants insured status to newly acquired or formed organizations, but it specifically excludes coverage to the newly acquired organization for wrongful acts committed prior to the acquisition. TEO-0210 is an optional use endorsement used to provide coverage for the prior acts of the acquired entity.
TEO-0211 (1206) – Other Insurance Condition	This optional endorsement allows for this insurance to apply on a pro rata basis with other insurance in lieu of being excess.
TEO-0212 (1206) - Retroactive Date Applicable to Increased Limits of Insurance	This optional use endorsement is for occasions when an Insured requests higher limits of insurance, e.g. growing business, expanding operations, additional products/services. This endorsement allows us to maintain the original retroactive date for the lower limits and establish a current retroactive date for the excess limits.
TEO-0213 (1206) – Security Breach or Unauthorized Access Coverage	This optional endorsement is used to grant coverage for security breach and unauthorized access by deleting the exclusion from the Coverage Form.
TEO-0214 (1206) – Self Insured Retention Including Defense Expenses	This optional endorsement allows for a self insured retention to be applied to the contract.
TEO-0215 (1206) - Supplemental Extended Reporting Period	This optional use endorsement provides an unlimited supplemental extended reporting period, with a reinstated aggregate limit, and is available to the insured if policy is cancelled, non-renewed or revised with coverage restrictions.

## Superseded Attachments

Please note that all items on the following pages are items, which have been replaced by a newer version. The newest version is located with the appropriate schedule on previous pages. These items are in date order with most recent first.

Original Date:	Schedule	Document Name	Replaced Date	Attach Document
No original date	Form	Exclusion -- Intellectual Property	06-27-2007	TEO-0205 - Exclusion -- Intellectual Property.pdf
No original date	Form	Supplemental Extended Reporting Period	06-27-2007	TEO-0215 - Supplemental Extended Reporting Period.pdf



**ZURICH**

## **Exclusion -- Intellectual Property**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

### **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

Exclusion **k**. Intellectual Property of SECTION I -- COVERAGE is deleted and replaced by the following:

#### **k. Intellectual Property**

Any actual or alleged:

- 1)** Theft, infringement, dilution, or violation of a patent, trademark, service mark, service name, slogan, title, trade name, trade dress, or style of doing business;
- 2)** Wrongful appropriation or disclosure of trade secrets; or
- 3)** Violation of any other intellectual property right or law;

But, this exclusion does apply to the actual or alleged theft, infringement, dilution, or violation of copyright.

# Supplemental Extended Reporting Period



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

## **TECHNOLOGY ERRORS AND OMISSIONS PROTECTION COVERAGE FORM**

### **SCHEDULE**

#### **Supplemental Extended Reporting Period**

**Effective Date:**

**Premium:**

- A.** A Supplemental Extended Reporting Period endorsement is provided, as described in SECTION V -- EXTENDED REPORTING PERIODS.
- B.** This Supplemental Extended Reporting Period is the 5 year period starting on the Supplemental Extended Reporting Period Effective Date shown in the Schedule above.
- C.** The Limits of Insurance and Each Claim Deductible shown in the Coverage Part Declarations will continue to apply as set forth in SECTION III -- LIMITS OF INSURANCE -- DEDUCTIBLE.
- D.** The insurance provided during the Supplemental Extended Reporting Period is excess over any other insurance, whether primary, excess, contingent, or on any other basis, whose policy period begins or continues after the Supplemental Extended Reporting Period Effective Date.
- E.** This endorsement will not take effect unless the additional premium for it, as set forth in SECTION V -- EXTENDED REPORTING PERIODS, is paid when due. If that premium is paid when due, this endorsement may not be canceled.